

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 6056 of 1991

Between:

1. V.Nagasayanam, s/o.V.V.Narayana

Sarma, 70 years.

2. V.Venkateswarlu, s/o.V.V.Narayana

Sarma, 50 years, Advocate, Penukonda,

Anantapur District.

3. V.Janardhan, s/o.V.Venkateswarlu,

28 years.

All residing at Cherlapalli village, Penukonda taluk,

Anantapur District.

..... PETITIONERS

AND

1. The District Collector, Anantapur

2. The Mandal Revenue Officer,

Kothacheruvu, Anantapur District.

3. Madimi Pedda Narayana, s/o.Pedda Sanjeevappa

4. Samakoti Mallapa, S/o.Subbanna

5. Kurakula Venkatappa, S/o.Venkatesu

6. Madimi Nadipi Narayanappa, S/o.Subbarao

7. Rangannagari Pedda Nagappa, s/o.Chikkappa

8. Madimi Chinna Narayanappa, s/o.Pedda Sanjivappa
9. Rangannagari Chinna Nagappa, s/o.Chikkappa
10. Rangannagari Nagireddy, s/o.Venkatappa
11. Rangannagari Pedda Subbanna, s/o.Chikkappa
12. Rangannagari Subbi Reddy, s/o.Venkatappa
13. Madimi Suryanarayana, s/o.Pedda Sanjivappa
14. Boya Nagamma, s/o.Kondappa
15. Rangannagari Chinna Subbanna, s/o.Chinna Subbarayudu
16. Madimi Narappa, s/o.Sanjivappa
17. Madimi Subbanna, s/o.Nagappa
18. Madimi Sanjivappa, s/o.Pedda Sanjivappa
19. Madimi Pedda Sanjivappa, s/o.Narappa

(R-3 to R-19 are impleaded as per Court orders dated 25-06-2004 in W.P.M.P.No.26570 of 1996.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any other appropriate Writ or direction declaring the action of the 2nd respondent in initiating proceedings under Section 4 and 7 of the Andhra Pradesh (Andhra Area) Inams Abolition Act, 1956, without following the procedure under Section 3 of the Act as illegal and without jurisdiction and direct the 2nd respondent to follow the procedure laid down under Section 3 of the Act.

For the Petitioners : MR.O.MANOHER REDDY, Advocate

For the Respondent Nos.1&2 : G.P. for REVENUE

For the respondent Nos.3 to 19 : Mr.K.V.Reddy, Advocate

The Court Made the Following :

HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 6056 of 1991

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ORAL ORDER:

Heard the learned counsel for the petitioners and also the learned Government Pleader for Revenue.

Petitioners herein, who claimed to be Inamdars and enjoyers of the lands situate in Virupapuram village, Kothacheruvu Mandal, Anantapur District, filed this Writ Petition seeking to assail the proceedings initiated under Section 4 and 7 of the Andhra Pradesh (Andhra Area) Inams Abolition Act 1956 (for brevity 'the Act') and there being no determination as such under Section 3 of the Act thereof as illegal.

The case of the petitioners is that they have been in possession and enjoyment as Inamdars of the lands and earlier the respondents have issued notice under Sections 4 and 7 of the Act, which has been challenged before this Court in W.P.11449 OF 1985, which was allowed on 27-09-1988, directing issuance of fresh notice, consider their objections and dispose of the matter. Following the same, once again impugned notices have been given by the respondents herein under Sections 4 and 7 of the Act and since the petitioner did not appear, they passed final orders. Hence, the present Writ Petition.

The main submission made on behalf of the petitioners is that since its inception, the petitioners have been canvassing that there is no determination as contemplated under Section 3 thereof and, therefore, the procedure under Sections 3, 4 and 7 cannot be invoked. Even the earlier Writ Petition was also filed on the same basis. Yet the respondents have once again taken the recourse of issuance of fresh notice. In the counter affidavit filed on behalf of the respondents herein, it is stated that having regard to the direction given by this Court, notices were issued under Sections 4 and 7 of the Act and in spite of the receipt of same, the petitioner did not participate and therefore, the orders are passed.

Taking into consideration the submissions made on either side and also on perusal of the material on record, it is seen that though the petitioner has been canvassing the plea that in the absence of any determination under Section 3 of the Act, the proceedings under Sections 4 and 7 of the Act cannot be initiated, yet the same is not properly understood either way. Admittedly, there is no

determination under Section 3 of the Act. There cannot be any dispute from the reading of the provisions of Section 3, 4, 7 of the Act that as long as such determination is not there, notices under Sections 4 and 7 cannot possibly be initiated.

In the circumstances, to avoid any further disputes and to give a finality, it is desirable that the respondents shall take up the proceedings under Section 3 of the said Act by issuing notice, conduct enquiry and pass orders. It is only thereafter if it is expedient, the proceedings under Sections 4 and 7 of the Act can be initiated by giving notice as contemplated.

Writ Petition is accordingly allowed.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday the Twenty fifth day of June, two thousand and four.

ASSISTANT REGISTRAR

25th June, 2004.

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// True Copy //

Section Officer

To

1. The District Collector, Anantapur
2. The Mandal Revenue Officer,
Kothacheruvu, Anantapur District.
3. Two C.Cs to the G.P. for Revenue,
High Court of A.P. Buildings, High Court of
A.P., Hyderabad. (O.U.T.)
4. Two C.D copies.

